To: San Luis Obispo County Board of Supervisors
CC: Dan Buckshi, County Administrative Officer
Nikki Schmidt
From: Paul J. Yoder and Karen Lange, Legislative Advocates
Date: October 30, 2012
RE: San Luis Obispo County – 2012 Annual Legislative Report

The 2011-12 Legislative Session ended on August 31, 2012. Governor Brown had until September 30 to act on bills sent to him in the final days of the session. Unless they contain an urgency clause (which makes them effective immediately), any measures signed by the Governor will become effective on January 1, 2013.

2012-2013 Enacted State Budget

The Legislature approved the main budget bill on June 15, in time to meet their Prop. 25 Constitutional obligation of passing a budget on time. However, some of the more challenging budget issues (particularly redevelopment) required more time, and the Legislature completed their budget work on the many trailer bills by June 27. The Governor signed the budget and related trailer bills in time for the start of the new fiscal year on July 1.

Below are some of the key features of the enacted budget:

The budget is predicated on the passage of the Governor's tax proposal which will appear on the November 2012 ballot. The Governor's tax proposal is a Constitutional amendment that would raise the personal income tax and the sales and use tax on a temporary basis. Together, the proposed increase in the two taxes is expected to raise an additional $8.4 billion through the budget year, representing $2.9 billion to schools and community colleges and $5.5 billion for General Fund benefit. The measure would also permanently dedicate revenues to local governments to pay for public safety programs realigned in 2011.

Trigger Cuts Absent New Revenues

In the event that the voters do not approve the Governor's tax proposal in November, a series of trigger cuts will occur. The triggered reductions are not tiered (unlike last year's budget) and will occur as follows:

Ballot Trigger Reductions

($ in millions) **Expenditure Reductions**	**2012-13**
Proposition 98	$5,353.8
University of California*	250.0
California State University*	250.0
Developmental Services	50.0
City Police Department Grants	20.0
Department of Forestry and Fire Protection	10.0
Flood Control	6.6
Local Water Safety Patrol	5.0
Fish and Game: Non-Warden Programs	2.5
Park Lifeguards	1.4
Fish and Game: Wardens	1.0
Department of Justice	1.0
Park Rangers	0.1
TOTAL	**$5,951.4**

Other Features of the Budget

AB 32/ Cap and Trade

The Air Resources Board will receive the following funding and responsibilities to implement cap and trade:

- $500 million for related programs from auction allowance proceeds with not less than 60-day notification to the Legislature.

- Establishes both a Cost of Implementation Fee account within the Air Pollution Control Fund for AB 32 regulatory fee tracking as well as a dedicated fund for proceeds of auction revenues from the Cap and Trade program.

- Approved trailer bill and supplemental reporting language to provide oversight of the Cap and Trade program.

CalWORKs. The budget compromise includes $469 million in reductions to the state's welfare to work program (CalWORKs). This reduction is mainly achieved by a significant reduction to welfare-to-work services in the budget year. However, the compromise also makes significant ongoing changes to the program that cut in half the amount of time a welfare recipient can receive welfare-to-work services.

- Modifies the number of required welfare-to-work hours to conform to federal requirements.

- Effective January 1, 2013, prospectively created a new 24-month time limit on welfare-to-work services. Unless otherwise exempt from participation, applicants and recipients would receive 24 months of welfare-to-work services and activities under current state rules, and would then be required to meet federal participation requirements to access the remainder of the months toward their 48-month lifetime time limit.
- Authorizes counties to extend assistance for no more than 20 percent of recipients upon expiration of the 24-month time limit.

Dual Demonstration Project and Long-Term Care Integration. The budget contains $612 million in savings from merging service delivery for those who are eligible for both Medi-Cal and Medicare and integrating In-Home Supportive Services into managed health care.

In-Home Supportive Services (IHSS) Program. The budget continues a 3.6 percent reduction in hours to IHSS recipients. This action results in $59 million in the budget year.

Child Care. The budget proposal includes an 8.7 percent across the board reduction to child care slots to save $80 million in the budget year. The compromise also suspends the statutory cost-of-living allowance saving $30 million in the budget year.

Suspends and Does Not Fund Mandates on Local Government. The budget suspends certain mandates on local governments for savings of approximately $729 million in the budget year. This savings continues for the next two years from a continual suspension of payments on these mandated activities. (*this out-year suspension is legally questionable and may need to be revisited in the next budget, as Legislatures may not tie the hands of future Legislatures)

HUTA. The budget includes the redirection of excise tax revenues from the sale of gasoline to the General Fund for an indefinite period of time, resulting in additional revenues of $184 million in 2011-12 and $128 million in 2012-13, and ongoing. (This is a significant decision as it undoes an agreement negotiated with CSAC last year that made the redirection temporary. This budget makes it permanent.)

Eliminate Department of Mental Health. The budget eliminates the DMH and creates a Department of State Hospitals.

Redevelopment

The Budget trailer bill on redevelopment, AB 1484, contained over 70 pages of changes to current law as it relates to redevelopment elimination. It was by far the most controversial part of the budget, and had difficulty passing, although it ultimately was approved. Enactment of AB 1484 signifies $3.3 billion in revenue to the State. One provision of note: the measure provides that if a local successor agency does not make a payment of property taxes to the county for distribution to other local taxing agencies by no later than July 12, 2012, *the successor agency is subject to a civil penalty of 10% of the amount owed (plus a 1.5% per month add-on penalty.)* It also authorizes the Department of Finance to notify the Board of Equalization to suspend sales tax payments to the affected city, effective July 18. Further, a cash penalty of $10,000 per day can be imposed for failure to submit a ROPS by September 1, 2012. The League of California Cities has now filed a lawsuit regarding AB 1484. It was filed on Monday, September 24, 2012.

Realignment

SB 1020 (Chapter 40, Statutes of 2012), the Realignment fiscal superstructure bill, was signed by the Governor on June 27. CSAC participated extensively in the development and approval of this superstructure, and has produced a comprehensive guide to the measure, which can be viewed here:

http://www.csac.counties.org/sites/main/files/file-attachments/12.06.28_fiscal_structure_tbl_readers_guide_rev_june_27_2012.pdf

Of course, the Constitutional protections for this realignment are tied to the Governor's tax initiative which will appear on the November ballot. In the absence of the protections, the Governor has kept his word in ensuring that the realignment would be funded.

Pension Reform

One of the major pieces of legislation approved at the end of the session was AB 340 (Furutani), which was the conference report on pension reform. (Additionally, a companion clean-up measure, AB 197, was also approved.) It will apply to state employees as well as almost every local agency in the state. The only agencies exempted are charter cities and counties that operate their own independent retirement system. Because San Luis Obispo is not a charter county, the County is impacted by this measure, despite operating an independent retirement system. We have been working with PERS, SACRS and other agencies to try and seek clarity on certain issues pertaining to this bill that remain unclear.

Key features of the reform package, as described by CSAC, are as follows:

1. Establishes new pension formulas for new employees hired on or after January 1, 2013. All new employees in the miscellaneous classification will receive a 2% @ 62 benefit formula with a full benefit of 2.5% @ 67. New safety employees will be provided one of three formulas that are at full retirement: 2% @ 57, 2.5% @ 57, and 2.7% @ 57.

The employer and/or retirement system will determine which of the three formulas is closest to the formula currently provided to safety members.

2. Establishes a cap on the amount of compensation that can be used to determine pension benefits. The cap is based on the social security contribution and benefit base as specified on January 1, 2013, currently $110,100. The cap for employees not receiving social security benefits is 120 percent of the social security base or $132,120. The cap will be adjusted annually based on changes to the Consumer Price Index.

3. Establishes a cap on the contributions to any retirement benefit for employees, including defined contribution plans, at the IRS 401 (a) limits, currently $250,000. For any employees earning more than $250,000, employers are prohibited from making contributions to any retirement benefit on salary amounts above $250,000.

4. Restricts the use of supplemental defined benefit plans. The bill prohibits the establishment of new supplemental defined benefit plans and requires that no additional employee group be added to existing plans.

5. Establishes as a standard that employees pay at least 50 percent of the normal costs of pension benefits and prohibits employers from paying the employee share of that cost. All new employees will be required to pay 50 percent of the normal costs of their pensions on January 1, 2013. Beginning in 2018, if existing employees are not paying 50 percent of normal pension costs or have not agreed to other cost sharing agreements authorized in the bill, counties can negotiate increased contributions of 50 percent of normal costs up to specified new contribution caps. The 50 percent requirements for existing employees achieved pursuant to this section of the bill do not require agreement by employee representatives and can be imposed after good faith negotiations.

6. Authorizes local agencies, including counties, to negotiate cost sharing agreements that include the costs of the unfunded pension liability. Cost sharing must be by agreement between the employer and employee representatives; however, additional new authority provides that the agreement may be reached bargaining unit-by-bargaining unit, rather than requiring all safety or all non-safety employees to agree.

7. Requires final compensation for new employees to be calculated based on the highest average annual pensionable compensation earned during a period of at least three years.

8. Defines a new employee as an individual who has never been a member of any public retirement system prior to January 1, 2013 or an individual who has moved between public employers or retirement systems and had more than a 6 month break in service. If an employee moves to a new public employer within six months of leaving a previous public employer and maintains pension system reciprocity with the new employer, then the employee would be entitled to the pension benefit that was available to the similar employee group on December 31, 2012, rather than be treated as a new employee.

9. Eliminates pension spiking for new employees with a strict definition of "pensionable compensation". The new definition does not include payments for items such as vacation, sick leave, vehicle allowance, uniform allowance, and employer contributions to defined benefit plans.
10. Limits pension spiking for existing employees. The bill attempts to restrict some items of pensionable compensation for existing employees by allowing only the amount earned and payable in each 12-month period during the final average pay period. Late amendments attempt to clarify that the new pension spiking rules are intended to be consistent with case law.
11. Provides the 1937 Act retirement boards of counties with new authority to assess and determine whether pension spiking has occurred, including the authority to audit the county or district. Additionally, authorizes retirement boards to assess a county or district a reasonable fee to cover the cost of audit, adjustment, or correction to new requirements for reporting compensation to the retirement system.
12. Restricts the use of retired annuitants. Prohibits a retired annuitant from returning to service before 180 days has passed unless the employer certifies the appointment is necessary to fill a critically needed position before 180 days and the appointment has been approved by the governing body of the employer in a public meeting. (The 180 prohibition does not apply to a retiree who is a public safety officer or firefighter.)
13. Restricts reciprocity benefits for individuals elected to the City Council or Board of Supervisors on or after January 1, 2013. This change is intended to prohibit a city council member or supervisor from collecting a pension using his or her highest final salary from other public employment for the years of service in an elected position. This restriction is currently in place within CalPERS agencies, the proposal would extend it to other retirement systems.
14. Limits the ability of retired individuals to serve on boards and commissions without reinstatement from retirement. Any retired individual first appointed on or after January 1, 2013 to a salaried position on a state board or commission shall not serve without reinstatement unless the appointment is to a part-time position. If part-time is not otherwise defined, it shall mean the position has a salary of no more than $60,000 per year with an annual adjustment as specified.
15. Prohibits employers from providing health vesting schedules and pension contribution rates for non-represented individuals and elected or appointed officials that are more advantageous than those provided for represented employees in related membership classifications.
16. Prohibits retroactive pension benefit increases. Any future pension benefit enhancements would apply to future service only. Note—statutory authority would be necessary to provide any benefits above what is authorized in the reform bill.

17. Prohibits the purchase of nonqualified service credit (air-time).
18. Prohibits contribution holidays. Pension boards may suspend contributions if a plan is 120 percent funded or if the retirement system determines that additional contributions would jeopardize the tax status or otherwise harm the plan.
19. Limits the ability of individuals who have committed specified felonies to collect a public pension related to that office or position.
20. Adds a new industrial disability benefit for safety officers. Allows a safety member to receive an actuarially reduced pension benefit if he or she is not qualified for service retirement. This option may be available in some 1937 Act retirement systems, but is not currently offered by CalPERS.

Quagga Mussels

The County was also successful through its participation in legislation authored by Assemblyman Williams (AB 2443) to establish a funding source for quagga prevention efforts. This measure was signed into law. San Luis Obispo was among a handful of counties to take a lead on this burgeoning issue. The fee proposal even secured Republican votes. With the passage of AB 2443, the County will now be in a position to secure funding to establish and maintain a quagga prevention program at the County's drinking water sources. Before the enactment of this legislation, there was no funding available from the state for this purpose. Once an infestation occurs, eradication is nearly impossible, and exorbitantly expensive to attempt. This legislation and accompanying funding will save the county and ratepayers potentially tens of millions of dollars in future costs.

State Lands Commission

We spent time over the course of the summer working with members of the State Lands Commission to ensure that the concerns of the Board were taken into consideration as the Commission considered a permit for PG&E to study seismic risk at Diablo Canyon. The Commission acted in August to approve the permit, with consideration given to those matters articulated in correspondence to the Commission from the County.

Workers Compensation Reform

Another major piece of legislation approved at the end of session was SB 863, related to workers compensation reform. The Governor has signed this bill. The final language emerged shortly before being debated, which reduced the amount of time available to local agencies to review. It was negotiated with large private employers.

State Responsibility Area Fees: Update

The State has commenced mailing the SRA fee bills to residents in the SRA. We have learned that some mobile home owners living in parks in the SRA will receive two separate bills. This is because there was in imperfect database used to mail the bills. The Department of Housing and Community Development sent CalFIRE their information on mobile home decals, which were used to mail the bills. Additionally, the contractor used by the Board of Equalization obtained (sometimes out-of-date) assessment parcel information to mail bills. In some instances, those with both a decal and an assessment parcel number received two bills from the State. Please note that in some cases, the two bills may not be for the same amount – one fee will reflect the mobile home's presence inside an existing fire protection district for $115, and the other fee may be the full $150. We have coordinated extensively with CalFire and BOE to get clear direction for affected persons. If a San Luis Obispo County resident finds themselves in receipt of two bills, they are supposed to file for redetermination as soon as possible. The State is aware of the double-billing problem and was unable to reconcile the records before mailing the bills.

Health Care

The Governor has announced that he will call a special session on healthcare reform in late 2012 or early 2013. The special session is expected to run concurrently with the regular session. Its focus and product will be directed and informed by the results of the national election. Many bills to guide and support the roll-out of healthcare reform in California were held in their final policy or fiscal committees in 2012, due to the potentially significant change in direction on the Affordable Care Act that may occur after the election.

Ballot Initiatives

There are 11 initiatives appearing on the November ballot. There were 12, but the Legislature moved the water bond – originally scheduled for the November 2010 ballot - to the November, 2014 ballot. Three initiatives deal with taxes, three relate to criminal justice issues, three would affect the Legislature (all in different ways), and two would affect the consumer market.
A summary of the November, 2012 statewide initiatives in as follows:

Proposition 30: Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment. This is the Governor's initiative and it contains the Constitutional protections for the 2011 Realignment.

Proposition 31: State Budget. State and Local Government. Initiative Constitutional Amendment and Statute. This is the California Forward Initiative, and includes a two-year budget cycle, pay-go requirements on legislation and increased local authority to raise revenues to implement legislation.

Proposition 32: Prohibits Political Contributions by Payroll Deduction. Prohibitions on Contributions to Candidates (aka "paycheck protection.). The "no" campaign on this initiative will likely be one of the most highly funded campaigns in 2012.

Proposition 33: Changes Law to Allow Auto Insurance Companies to Set Prices Based on a Driver's History of Insurance Coverage.

Proposition 34: Death Penalty Repeal.

Proposition 35: Human Trafficking. Penalties. Sex Offender Registration.

Proposition 36: Three Strikes Law. Sentencing for Repeat Felony Offenders.

Proposition 37: Genetically Engineered Foods. Mandatory Labeling.

Proposition 38: Tax for Education and Early Childhood Programs. Initiative Statute (this is Molly Munger's tax initiative, which the Governor considers to be in direct competition with his own.)

Proposition 39: Tax Treatment for Multistate Businesses. Clean Energy and Energy Efficiency Funding.

Proposition 40: Redistricting; referendum on State Senate Districts. (Note: the proponents have abandoned their effort to secure approval on this proposal.)